

Department of Veterans Affairs

§ 3.209

by a party thereto or a person whose interest in a claim for Department of Veterans Affairs benefits would be affected thereby. In cases where recognition of the decree is thus brought into question:

(a) Where the issue is whether the veteran is single or married (dissolution of a subsisting marriage), there must be a bona fide domicile in addition to the standards of the granting jurisdiction respecting validity of divorce;

(b) Where the issue is the validity of marriage to a veteran following a divorce, the matter of recognition of the divorce by the Department of Veterans Affairs (including any question of bona fide domicile) will be determined according to the laws of the jurisdictions specified in § 3.1(j).

(c) Where a foreign divorce has been granted the residents of a State whose laws consider such decrees to be valid, it will thereafter be considered as valid under the laws of the jurisdictions specified in § 3.1(j) in the absence of a determination to the contrary by a court of last resort in those jurisdictions.

CROSS REFERENCE: Evidence of dependents and age. See § 3.204.

[27 FR 6281, July 3, 1962, as amended at 35 FR 16831, Oct. 31, 1970; 40 FR 53581, Nov. 19, 1975; 52 FR 19349, May 22, 1987]

§ 3.207 Void or annulled marriage.

Proof that a marriage was void or has been annulled should consist of:

(a) *Void*. A certified statement from the claimant setting forth the circumstances which rendered the marriage void, together with such other evidence as may be required for a determination.

(b) *Annulled*. A copy or abstract of the decree of annulment. A decree regular on its face will be accepted unless there is reason to question the basic authority of the court to render annulment decrees or there is evidence indicating that the annulment may have been obtained through fraud by either party or by collusion.

CROSS REFERENCES: Effective dates, void or annulled marriage. See § 3.400 (u) and (v). Evidence of dependents and age. See § 3.204.

[28 FR 2904, Mar. 3, 1963, as amended at 40 FR 53581, Nov. 19, 1975; 52 FR 19349, May 22, 1987; 59 FR 46338, Sept. 8, 1994]

§ 3.208 Claims based on attained age.

In claims for pension where the age of the veteran or surviving spouse is material, the statements of age will be accepted where they are in agreement with other statements in the record as to age. However, where there is a variance in such records, the youngest age will be accepted subject to the submission of evidence as outlined in § 3.209.

CROSS REFERENCE: Evidence of dependents and age. See § 3.204.

[40 FR 53581, Nov. 19, 1975, as amended at 52 FR 19349, May 22, 1987]

§ 3.209 Birth.

Age or relationship is established by one of the following types of evidence. If the evidence submitted for proof of age or relationship indicates a difference in the name of the person as shown by other records, the discrepancy is to be reconciled by an affidavit or certified statement identifying the person having the changed name as the person whose name appears in the evidence of age or relationship.

(a) A copy or abstract of the public record of birth. Such a record established more than 4 years after the birth will be accepted as proof of age or relationship if, it is not inconsistent with material of record with the Department of Veterans Affairs, or if it shows on its face that it is based upon evidence which would be acceptable under this section.

(b) A copy of the church record of baptism. Such a record of baptism performed more than 4 years after birth will not be accepted as proof of age or relationship unless it is consistent with material of record with the Department of Veterans Affairs, which will include at least one reference to age or relationship made at a time when such reference was not essential to establishing entitlement to the benefit claimed.

(c) Official report from the service department as to birth which occurred while the veteran was in service.